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BEFORE THE

FEDERAL COMMUNICATIONS COMMISSION

WASHINGTON, D.C. 20554

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In the Matter of

)

) CC Docket No. 92-115

Revision of Part 22 of the Commission's

)

Rules Governing the Public Mobile Services

)

**COMMENTS OF
THE CELLULAR TELECOMMUNICATIONS INDUSTRY ASSOCIATION**

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June 20, 1994

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**COMMENTS OF
THE CELLULAR TELECOMMUNICATIONS INDUSTRY ASSOCIATION**

The Cellular Telecommunications Industry Association ("CTIA") respectfully submits its comments on the Further Notice of Proposed Rule Making in the above-captioned proceeding.¹ CTIA is a trade association whose members provide commercial mobile services, including over 95 percent of the licensees providing cellular service to the United States, Canada, Mexico, and the nation's largest providers of ESMR service. CTIA's membership also includes wireless equipment manufacturers, support service providers, and others with an interest in the wireless industry. CTIA and its members have a direct and vital interest in the outcome of this proceeding.

Introduction

On April 20, 1994, the Commission adopted a Further Notice of Proposed Rule Making which proposes additional revisions to Part 22 of the Commission's rules governing the Public Mobile Services.² While other issues are also addressed, the Commission requests public

¹ In the Matter of Revision of Part 22 of the Commission's Rules Governing the Public Mobile Services, CC Docket No. 92-115, FCC 94-102, 9 FCC Rcd ____ (released May 20, 1994)("Further Notice").

² On May 14, 1992, the Commission adopted a Notice of Proposed Rulemaking in this docket which proposed several revisions to Part 22 of the Commission's Rules. In the Matter

comment on four proposals that will affect cellular services.

The Commission recommends the following as further revisions to Part 22: 1) a proposal to require cellular licensees who notify the Commission of minor modifications to their systems on FCC Form 489, including Service Area Boundary ("SAB") extensions into the adjacent market, to specify whether the five year fill-in period for the market has expired, and if so, to state that the SAB extension does not cover any unserved area; 2) a proposal to revise the map scale for the requisite Part 22 maps from 1:250,000 to 1:500,000; 3) a proposal to eliminate the licensing of inner cell sites and require all cellular licensees to file, on a one-time basis, certain geographic and technical information for each of their external cell sites; and 4) a proposal to revise the system update information required for existing cellular systems to include the submission of maps at the proposed 1:500,000 scale that display only the exterior cell sites and their respective service area boundaries, an exhibit providing the coordinates for each exterior cell site and the data currently required in the MOB 3 Table of FCC Form 401, and labeling information submitted with the number of the relevant market. In addition, the Commission proposes to eliminate the submission of frequency utilization plans or charts.

CTIA supports the Commission's proposals for further revisions to its Part 22 rules. If adopted, these proposals will reduce the administrative burden on cellular licensees and the Commission staff by eliminating duplicate and unnecessary reporting requirements. Such proposals will improve the ease and efficiency of compliance with Part 22 regulations. While

of Revision of Part 22 of the Commission's Rules Governing the Public Mobile Services, CC Docket No. 92-115, Notice of Proposed Rulemaking, 7 FCC Rcd 3658 (May 1992) ("Notice"). CTIA has submitted comments endorsing the Commission's proposals set forth in that Notice. See CTIA Comments filed October 5, 1992 in CC Docket No. 92-115.

some of the proposed rules will enhance the manageability of certain documents, these proposed rules, in general, provide a sound balance between the elimination of cumbersome licensing requirements of inner cell sites and the public necessity for accurate and current information on a licensee's exterior cell sites and system updates.

While the proposed reporting requirements for exterior cell sites may be initially burdensome for cellular licensees, the long-term benefits of obtaining accurate and current information, as well as improved access to such information,³ outweigh the de minimis, one-time filing imposed on cellular licensees. CTIA commends the Commission in its efforts to provide an equitable balance between regulatory oversight and the needs of the cellular industry and its consumers. We agree with the Commission that the public, the cellular industry, and the Commission will all benefit from these proposals. While CTIA enthusiastically endorses the proposed revisions, CTIA addresses several issues concerning de minimis CGSA expansion, interference protection for inner cell sites, the filing date for the receipt of external cell site information, and a companion Part 22 rulemaking proceeding which addresses cellular fraud.

De Minimis CGSA Expansion

Although the Commission's Further Notice proposes a reporting requirement to streamline the Commission's review process for notification of minor modifications to a system's service area boundary, CTIA is concerned that the Commission's current and proposed rules governing the expansion of the CGSA after the five year fill-in period continues to require a

³ This proceeding also provides the Commission with an excellent opportunity Commission to make these filings available electronically.

formal Form 401 filing even for de minimis CGSA expansion,⁴ e.g., modification of a mile or less due to insignificant adjustments to existing cell site equipment.

CTIA urges the Commission to adopt a rule which allows de minimis expansions of the CGSA where minor adjustments are made to the cell sites from the CGSA border. CTIA suggests that the Commission be flexible in the amount of de minimis expansion it would allow and adopts less formal procedures to address minor adjustments to CGSAs, i.e., FCC Form 489 notification.

Interference with Inner Cell Sites

Although CTIA supports the elimination of licensing for inner cell sites, the Commission needs to clarify whether such action will also eliminate interference protection which the Commission affords to those cellular systems which notify the Commission of modifications. In Section 22.163 of Appendix A of the initial Notice, the Commission states that it will not offer interference protection for modifications for which it is given no notice.⁵ This statement, read in conjunction with the Commission's proposal to eliminate licensing of inner cell site, implies that if a cellular licensee wants interference protection for its inner cells, the licensee must continue to report changes for inner cell sites via FCC Form 489. CTIA believes that both inner and exterior cell sites should be afforded interference protection notwithstanding notification of changes to inner cell sites on FCC Form 489. CTIA requests that the Commission clarify its intent on this issue.

⁴ See 47 CFR §§ 22.23 and 22.903(d). See also, Notice, 7 FCC Rcd at 3667 (Sections 22.163 and 22.165).

⁵ Notice, 7 FCC Rcd at 3667.

Exterior Cell Site Information: Filing Date

In the Further Notice, the Commission proposes that cellular licensees will be required to submit the exterior cell site information in ascending market order and at periodic intervals. The Commission also requests comment on additional proposals for the submission of such filings. CTIA endorses the periodic interval approach to filing such information. However, rather than the Commission's traditional ascending market order, CTIA suggests that the Commission establish filing dates that prioritize the markets which are experiencing tremendous expansion and where the potential for interference is greater. CTIA maintains that it is the rapid-growth markets which tend to encounter interference problems in which current and accurate exterior cell site information is needed as soon as possible.

Additional Part 22 Revisions: Cellular Fraud

In a companion proceeding, the Commission has requested public comment on the Commission's proposed policies and rules governing toll fraud, particularly cellular fraud.⁶ CTIA commends the Commission for initiating a rulemaking proceeding to address the specific issues relating to cellular fraud and its costly effect on cellular licensees and cellular consumers. CTIA respectfully urges the Commission to move forward with the toll fraud proceeding and to adopt CTIA's proposals as delineated in that proceeding and below. CTIA's comments in the toll fraud proceeding ask the Commission to: 1) strengthen the wording of 47 CFR § 22.915 to insure that each mobile unit maintains the integrity of a unique, factory-set Electronic Serial

⁶ In the Matter of Policies and Rules Concerning Toll Fraud, Notice of Proposed Rulemaking, CC Docket No. 93-292 FCC 93-496, 8 FCC Rcd 8618 (released December 2, 1993)("Toll Fraud Notice"). CTIA has filed comments in response to the Toll Fraud Notice. See CTIA Comments filed January 14, 1994 in CC Docket No. 93-292.

Number ("ESN"); 2) urge Congress to enact new legislation that would make altering an ESN a federal crime; 3) work with the cellular industry in requesting Congress to give federal law enforcement agencies the tools necessary to prosecute cellular fraud by amending the federal criminal statute which makes it a crime to use a counterfeit access device to commit fraud;⁷ and 4) adopt the proposal that liability for fraud should rest with the entity most able to control it

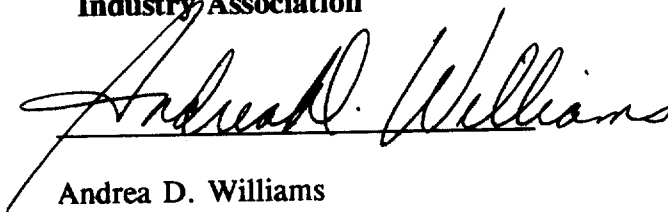
Conclusion

CTIA supports the proposals set forth in the Further Notice and commends the Commission's efforts in proposing revisions to Part 22 that are discernable and beneficial to the cellular industry and its customers. The suggestions and request for clarification on the specific issues discussed above can be addressed by the Commission by minor adjustments to the proposed rules or with a clarification statement of the Commission's intent. Finally, CTIA urges the Commission not to delay any further the adoption of CTIA's proposals relating to cellular fraud. While the Commission has the herculean task of developing and implementing the revisions to Part 22 of the Commission's rules, CTIA respectfully reminds the Commission that the issues concerning cellular fraud require a timely resolution to prevent further financial losses and criminal harm to the cellular industry, its consumers, and the public at large.

⁷18 U.S.C. § 1029.

Respectfully submitted,

**Cellular Telecommunications
Industry Association**

A handwritten signature in cursive script, reading "Andrea D. Williams", written over a horizontal line.

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June 20, 1994

Certificate of Service

I, Stacie A. Brooks, hereby certify that on this 20th day of June, 1994, copies of the foregoing Comments of the Cellular Telecommunications Industry Association were served by hand delivery upon the following parties:

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